

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2090 of 1998

to

FIRST APPEAL No 2134 of 1998

STATE OF GUJARAT

Versus

HARSHADBHAI ASHABHAI PATEL

Appearance:

Mr.P.G.Desai, Govt.Pleader in FA 2090 to 2019/1998

Mr.S.P.Dave, Addl.Govt.Pleader in FA 2110 to 2121/1998

Mr.L.R.Poojari, Addl.Govt.Pleader in FA 2122 to 2134/1998

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE R.P.DHOLAKIA

Date of decision: 13/07/98

ORAL JUDGEMENT (Per: Y.B.Bhatt,J.)

These are appeals filed by and on behalf of the State of Gujarat under Sec.54 of the Land Acquisition Act read with Sec.96, CPC, challenging the common judgment and awards passed by the Reference Court under Sec.18 of the said Act.

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#. The lands under acquisition were acquired for Shedhi Branch of the Narmada Canal Project. A notification under Sec.4 was published on 28th May, 1990 wherein the lands situated in the Village Mahudha, Taluka Nadiad, District Kheda belonging to the respondents-original landholders were acquired.

#. The Special Land Acquisition Officer after following the due procedure declared his award under Sec.11 and offered compensation on the basis of market value determined at Rs.390/- per are for irrigated lands and Rs.260/- per are for non-irrigated lands. The respondents-landholders not having accepted the award,

preferred their References under Sec.18 of the said Act, which were heard and decided by the impugned judgment and awards, wherein the Reference Court determined the market value of the acquired lands at Rs.2,000/- per are.

#. It is this common judgment and awards which are the subject matter of the present group of appeals.

#. We have heard the learned counsel for the appellants on the merits of the impugned judgment and have referred to such evidentiary material to which our attention have been drawn.

5.1 Looking to the facts and circumstances of the case, we are satisfied that the impugned judgment and awards do not merit any interference in these appeals. The impugned judgment, taken in its overall perspective, is, in our opinion, not assailable. We agree with the assessment of the evidence on the part of the Reference Court, the conclusions drawn therefrom and the findings of fact recorded.

#. We may, however, also refer to two decisions of this Court, which would cover the facts and circumstances of the case and would, as a result, justify the determination of market value under the impugned judgment and awards.

#. This very Bench had occasion to decide First Appeal Nos.1275 of 1998 to 1310 of 1998, by its judgment and order dated 30th June, 1998, wherein we have dealt with the acquisition of lands from the very same Village, namely Mahuda, as in the instant group. The relevant notification under Sec.4 in the aforesaid decision was dated 16th January, 1991, whereas in the instant case the same is 28th May, 1990. There is no significant difference or time interval between the two notifications in question, which would substantially alter the market value of the acquired lands. Such is not even the contention of learned counsel for the appellants. In the said decision, after considering the facts and circumstances of the case and the evidentiary material on record, we have determined the market value of the acquired lands at Rs.2,000/- per are, by dismissing the said Appeals filed by the State of Gujarat and confirming the judgment and awards of the Reference Court impugned in that group.

#. Another decision by this very Bench is in group of First Appeals, namely First Appeal Nos.1216 of 1998 to 1274 of 1998 decided on 25th June, 1998. The relevant

notification considered by us in the said decision was 24th May, 1990, which is only four days prior to the instant notification dated 28th May, 1990. We are conscious of the fact that in this decision we were dealing with the acquisition of land in the Village Dadusar, which is situated in the same Taluka. However, the common feature is that the said Village Dadusar is very close to the instant Village Mahuda, which aspect has been taken into consideration and discussed by us in para 7 of the said decision. In said paragraph, we have taken note of the fact that the Village Mahuda and the Village Dadusar are both contiguous and share a common boundary, and that there is no significant distinction between the fertility of the agricultural lands in these two Villages. Moreover, no other material distinction has been pointed out as to why the lands in Village Mahuda should be valued differently from those in Village Dadusar. As aforesaid in paragraph 7 of the said decision, we have confirmed the valuation of the lands in the Village Mahuda at Rs.2,000/- per are.

#. Thus, in the instant group of Appeals where the Reference Court has also valued the acquired lands at Rs.2,000/- per are, we see no reason to determine any other figure.

##. No other contention was raised by the learned counsel for the appellants.

##. As a result, therefore, the market value as determined by the Reference Court in the impugned judgment and awards is required to be confirmed. These Appeals are, therefore, dismissed.

Sd/-

(Y.B.Bhatt,J.)

Sd/-

(R.P.Dholakia,J.)

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